

REMARKS:

In view of the foregoing amendments and the following remarks, please reconsider the present application.

In amending the claims several claims have been cancelled and some new claims have been added so that the total number of claims is now 20. Among the claims, only amended claim 1 and new claim 26 are independent and accordingly no additional claim fees should now be required.

Regarding the examiner's objections to some of the claim language being indefinite, the internal height has been better defined in the claims to overcome the previous rejections to claims 1, 5 and 6. The language objected to in claims 4 and 11 has also been amended and claim 18 has been cancelled to overcome all of the examiner's remaining objections to indefinite language in the claims.

Claim 1 has been amended to include the subject matter of previously submitted claims 5 through 8 to better define the unique characteristics of the foot bed of the article of footwear according to the present invention rather than characteristics of the insole described in the examiner's cited references. The foot bed as defined in claim 1 being in the order of at least 2 inches at the metatarsal region is considerably greater than that which is conventionally understood as a suitable range for dimensions in the footwear industry. The larger foot bed in the footwear of the present invention however is surprisingly beneficial for accommodating the insole described having a durometer measured on the Ashore hardness scale of at least 6 and having a depth of at least 3/8 of an inch at the metatarsal region. When an insole of these configurations is placed within the conventional foot bed dimensions formed by conventional shoe lasts, the insole would not allow sufficient compression to provide sufficient space for the foot of the user to be comfortably received so that circulation would effectively be cut off in the user's foot.

As the dimensions within the shoe industry relating to shoe lasts and the resulting foot beds of footwear formed by the lasts are standardized, variation of these dimensions are generally considered by a person skilled in the art to be not recommended as this would affect the fit of the shoes formed. It is the understanding of persons skilled in the art that all variations are to be made to the insole so that a lighter durometer of material allowing more compression or a lower thickness of material would be provided to accommodate extra space for the foot of the user rather than varying the foot bed dimensions. It is surprisingly discovered that varying the insole characteristics to be less than a hardness of 6 and a thickness of 3/8 of an inch at the metatarsal region as claimed in claim 1 results in the insole being fully compressed to its maximum allowable compression when worn by average persons so that considerable shock is still felt by the user.

The reduction of this shock is generally understood by a person skilled in the art to be accomplished by variations to the outsole so that the outsole is more resilient. Suitably resilient materials to adequately reduce the shock load felt by the user however have a limited life span and as the outsole is not replaceable, this considerably limits the life span of the article of footwear.

Accordingly the concept of the present invention of increasing the foot bed so that the insole can in turn be increased in thickness and durometer to accommodate a suitable insole which absorbs shock by itself is considered to be a considerably different concept than the conventional knowledge of skilled workers in the art as the dimensions proposed and the configuration of the insole as proposed in amended claim 1 contradict the conventional teaching in the art with regard to standardized foot bed dimensions formed by standardized shoe lasts.

As the examiner has been unable to locate any prior art whatsoever which suggests variations to foot bed dimensions to accommodate thicker and more dense insoles

which will not reach the maximum compression while still allowing sufficient space for the foot of the user, it is believed that claim 1 should now be in condition for allowance.

More particularly the examiner has been unable to locate any references which suggest a similar foot bed dimension when the foot bed corresponds to a height of a shoe last used to form the shoe as in new dependent claim 25.

New independent claim 26 includes the subject matter of previously submitted claim 12 with regard to the insert in the insole body comprising a heel and arch insert in which the heel portion and the arch portion are formed integrally with one another. The examiner's only previous basis for rejection of claim 12 was US 6,453,578 belonging to Yung et al. Upon review of the cited document however there is no indication whatsoever of any desirability to provide an insole having an integral heel and arch insert therein. Upon review of the remaining cited references, it is believed that the integral construction of a heel and arch insert for insertion into an insole is distinguished and therefore should be allowable.

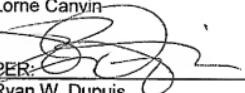
More particularly, it has been surprisingly discovered that when having an insole of increased thickness in the order of greater than 3/8 of an inch, a similar durometer at the heel and arch regions which differs from the durometer of the insole body is useful for proper support without reaching maximum compression of the insole. As the examiner has not located any prior art which discloses a similar thickness of insole nor any prior art which discloses an integral heel and arch insert, clearly therefore the advantages of such an integral heel and arch insert in an insole as described cannot be considered obvious.

The configuration of the heel and arch insert is yet further distinguished from the prior art in dependent claims 27 through 31. In dependent claim 29 it is noted that the heel portion comprises a central recess with a portion of the insole body being arranged to span the recess. This construction is particularly advantageous as it provides a simple construction of 2 components while resulting in an improved manner of supporting the heel in an article of footwear. Claim 31 is also of note in describing a u-shaped configuration of the

heel portion in which one leg of the u-shaped heel portion is formed continuously with the arch portion in a manner which readily accommodates the insole body spanning the recess while the insert remains easy to insert in the insole body.

Favorable reconsideration of this application is earnestly solicited.

Respectfully submitted
Lorne Canvin


PER:
Ryan W. Dupuis
Registration 47345

RWD/hk
September 30, 2008

Ryan W. Dupuis Winnipeg, Manitoba, Canada
Telephone (204) 944-0062 - FAX (204) 942-5723